



Office of the Attorney General
State of Texas

July 13, 1993

DAN MORALES
ATTORNEY GENERAL

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 99
Huntsville, Texas 77342-0099

OR93-447

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 19367.

The Texas Department of Criminal Justice (the "department") has received a request for information relating to a certain administrative hearing involving a department employee. Specifically, the requestor seeks categories of information:

- 1) documents listing the names of individuals who will testify against Mr. Musgrove in the hearing;
- 2) the results of any polygraph examinations given to any witnesses or persons involved in this case;
- 3) notes of the Internal Affairs investigative file pertaining to conferences with the confidential informant;
- 4) documents reflecting any administrative directives ordering an investigation by Internal Affairs in this case and their responsibilities;
- 5) documents indicating the dates, times and places where each alleged act of misconduct of John Musgrove occurred; and,
- 6) copies of any tape recordings of all witnesses interviewed in this particular case.

You advise us that you do not object to release of some of the requested information. You have submitted to us for review, however, the remaining information, which you seek to withhold under section 3(a)(8) of the Open Records Act.

Section 3(a)(8) excepts:

records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution.

When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986), citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); *see also* Open Records Decision No. 413 (1984) (Department of Corrections is a "law enforcement" agency within the meaning of section 3(a)(8)).

We have examined the documents submitted to us for review and agree with your contention that their release would seriously interfere with a legitimate interest of law enforcement by revealing, *inter alia*, certain department investigative techniques. Accordingly, we conclude that the documents submitted to us for review may be withheld from public disclosure in their entirety under section 3(a)(8) of the Open Records Act.¹

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



James B. Pinson
Assistant Attorney General
Opinion Committee

JBP/GCK/jmn

¹Whether the requestor might have a right of access to these documents by virtue of other law would not be an appropriate inquiry in this proceeding under the Open Records Act. *See Hutchins v. Texas Rehab. Comm'n*, 544 S.W.2d 802, 803 (Tex. Civ. App.--Austin 1976, no writ); *cf.*, *e.g.*, Open Records Decision No. 127 (1976) at 6 (Open Records Act is not exclusive means of obtaining information and does not restrict right of access based on special, as opposed to public, interest).

Ref.: ID# 19367
ID# 20141
ID# 20660

cc: Mr. Brian Pollard
Baker, Hancock & Pollard
P.O. Box 23309
Waco, Texas 76702-3309